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Topic: Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children

Legal Review of the Fulfilment of Victims' Rights in Human Trafficking Cases under Supreme Court Regulation (PERMA) No. 1 of 2022

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Abstract. Human trafficking is a serious criminal offense that inflicts multidimensional harm upon its victims, encompassing economic deprivation, physical suffering, psychological trauma, and long-term social consequences. In response to these adverse impacts, the Indonesian legal system recognizes victims' right to restitution as a mechanism for financial redress within the criminal justice process. To promote procedural consistency and legal certainty in the adjudication of victims' claims, the Supreme Court of the Republic of Indonesia enacted Supreme Court Regulation (PERMA) No. 1 of 2022 concerning the Procedures for the Resolution of Applications for Restitution and Compensation for Victims of Criminal Offenses. This study examines the mechanism for the realization of the rights of human trafficking victims under PERMA No. 1 of 2022 and evaluates the effectiveness of its regulatory framework in ensuring legal protection for victims, particularly following the enactment of Law No. 20 of 2025 concerning the Indonesian Code of Criminal Procedure. The research employs a normative legal methodology using both statutory and conceptual approaches. Legal materials were collected through doctrinal and library-based research, including legislation, legal scholarship, and other relevant sources, and were subsequently analyzed using a qualitative method. The findings demonstrate that PERMA No. 1 of 2022 has established a more structured and comprehensive framework governing the submission, examination, and resolution of restitution claims for victims of human trafficking. Nevertheless, several challenges continue to hinder its effective implementation, including victims' limited understanding of procedural requirements, difficulties in proving and quantifying losses, and obstacles in the enforcement of restitution orders.



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Accordingly, stronger inter-agency coordination, enhanced victim assistance and support mechanisms, and more effective enforcement of judicial decisions are necessary to ensure the effective and equitable realization of victims' rights.

Keywords: *Human Trafficking; Legal Protection; Restitution; Supreme Court Regulation No. 1 of 2022; Victims of Crime.*

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1. Introduction

Human trafficking constitutes a serious violation of human rights that generates complex and multidimensional harm to its victims. Victims may experience physical and psychological violence, economic exploitation, deprivation of liberty, social exclusion, and long-term disruption of their personal and family lives. Consequently, an effective criminal justice response should not be limited to the prosecution and punishment of perpetrators but must also guarantee the fulfilment of victims' rights, particularly their rights to protection, restitution, compensation, recovery, and access to justice.

In Indonesia, the legal recognition of these rights has developed through various legislative and institutional instruments, including Law No. 21 of 2007 concerning the Eradication of the Criminal Act of Trafficking in Persons and Supreme Court Regulation (PERMA) No. 1 of 2022 concerning the Procedures for the Settlement of Applications and the Provision of Restitution and Compensation to Victims of Criminal Acts.

PERMA No. 1 of 2022 represents an important normative development because it establishes a procedural framework for enabling victims to obtain restitution and compensation through judicial mechanisms. Nevertheless, the existence of a regulatory framework does not necessarily ensure the effective realization of victims' rights. In practice, challenges may arise in identifying victims' losses, calculating restitution, informing victims of their legal entitlements, ensuring institutional coordination, and enforcing judicial orders.

The potential gap between the formal recognition of rights and their substantive implementation demonstrates the need for a comprehensive legal review of the mechanisms established under PERMA No. 1 of 2022.

2. Research Methods

The research employs a normative legal methodology using both statutory and conceptual approaches. Legal materials were collected through doctrinal and library-based research, including legislation, legal scholarship, and other relevant sources, and were subsequently analyzed using a qualitative method.

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3. Results and Discussion

3.1. Normative Framework for the Fulfilment of Human Trafficking Victims' Rights under PERMA No. 1 of 2022

The fulfilment of victims' rights in human trafficking cases constitutes an essential component of a victim-centred criminal justice system. In Indonesia, the normative framework for protecting victims of trafficking is primarily established through Law No. 21 of 2007 concerning the Eradication of the Criminal Act of Trafficking in Persons, which recognizes victims' rights to protection, recovery, and restitution. This framework is strengthened by Supreme Court Regulation (PERMA) No. 1 of 2022 concerning the Procedures for the Settlement of Applications and the Provision of Restitution and Compensation to Victims of Criminal Acts. The regulation represents an important procedural instrument for transforming the substantive recognition of victims' rights into judicially enforceable mechanisms.

From a normative perspective, PERMA No. 1 of 2022 reinforces the principle that victims should not merely be regarded as instruments of criminal prosecution but as rights-holders entitled to meaningful remedies. Restitution is particularly significant in human trafficking cases because the crime frequently produces multidimensional harm, including financial losses, loss of income, physical and psychological suffering, and other consequences resulting from exploitation. Accordingly, the legal framework must ensure that the assessment of victims' losses is conducted comprehensively and that restitution is determined based on the actual consequences suffered by the victim. The judicial process should therefore incorporate the victim's interests without compromising the rights of the accused or the principles of due process.

PERMA No. 1 of 2022 also provides a procedural basis for the submission and examination of applications for restitution and compensation. This procedural framework is important because the effectiveness of a victim's rights depends not only upon substantive legal recognition but also upon the availability of accessible procedures. In this regard, law enforcement authorities and judicial institutions have a normative responsibility to ensure that victims receive adequate information regarding their rights and available remedies. Victims should also have access to legal assistance and appropriate support throughout the proceedings, particularly because trafficking victims may experience vulnerability, intimidation, trauma, and economic dependency.

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Nevertheless, the normative framework should be interpreted in conjunction with broader principles of human rights, access to justice, equality before the law, and respect for human dignity. The implementation of restitution should consequently be directed toward restoring the victim's position as far as possible rather than merely satisfying a formal judicial requirement. The existence of a restitution order without effective enforcement would create a gap between legal entitlement and actual enjoyment of rights. Therefore, PERMA No. 1 of 2022 should be understood as part of an integrated legal framework that requires coordination among investigators, prosecutors, courts, the Witness and Victim Protection Agency, and other relevant institutions. Ultimately, the normative framework seeks to ensure that criminal proceedings against traffickers are accompanied by effective mechanisms for victim recovery, thereby strengthening substantive justice and reinforcing the state's obligation to protect victims of human trafficking.

3.2. Judicial Implementation and Legal Challenges in Providing Restitution and Compensation to Trafficking Victims

The judicial implementation of restitution and compensation for victims of human trafficking represents a critical dimension of victim-centred justice in Indonesia. Although the legal framework recognizes victims' entitlement to remedies, the practical realization of these rights remains dependent upon the capacity of judicial and law enforcement institutions to translate normative provisions into effective judicial measures. Supreme Court Regulation (PERMA) No. 1 of 2022 provides an important procedural foundation for the settlement of applications and the granting of restitution and compensation to victims of criminal acts. In trafficking cases, its implementation should be understood as a mechanism for ensuring that victims obtain meaningful redress for losses and suffering resulting from exploitation rather than merely as an additional component of criminal proceedings.

One significant legal challenge concerns the identification and assessment of victims' losses. Human trafficking frequently produces complex forms of harm, including loss of income, financial exploitation, physical injury, psychological suffering, and disruption of social and family relationships. Consequently, judicial determination of restitution requires a comprehensive assessment of both material and other legally recognizable losses. Difficulties may arise when victims lack documentary evidence of their financial losses or when psychological and non-economic harm is difficult to quantify. A strictly formalistic evidentiary approach may therefore create barriers to the effective fulfilment of victims' rights. The judicial process should instead adopt an approach that recognizes the

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particular vulnerability of trafficking victims while maintaining procedural fairness and evidentiary standards.

Another challenge concerns the enforcement of restitution orders. The judicial determination of a restitution amount does not necessarily guarantee that the victim will actually receive payment. Traffickers may conceal, transfer, or dissipate their assets, while some convicted offenders may lack sufficient financial resources to satisfy the restitution order. This creates a distinction between the formal recognition of a victim's right and its substantive realization. Accordingly, restitution should be connected with effective mechanisms for identifying, securing, and enforcing claims against assets associated with criminal conduct.

Institutional coordination is also essential to the implementation of victims' rights. Investigators, prosecutors, courts, the Witness and Victim Protection Agency, and other relevant institutions have complementary responsibilities in ensuring that victims are informed about restitution and compensation and receive appropriate assistance in exercising their rights. Insufficient coordination may result in victims being unaware of available remedies or in restitution claims being inadequately prepared before judicial proceedings.

From a normative perspective, the implementation of PERMA No. 1 of 2022 must therefore be guided by access to justice, human dignity, equality, and effective remedy. Judicial institutions should ensure that restitution and compensation mechanisms do not become merely procedural formalities but operate as substantive instruments of victim recovery. Strengthening judicial enforcement, institutional coordination, victim assistance, and asset recovery mechanisms is consequently necessary to bridge the gap between the legal recognition of trafficking victims' rights and their actual enjoyment of those rights.

3.3. Reconstruction of a Victim-Centred and Effective Mechanism for Fulfilling Trafficking Victims' Rights

The reconstruction of a victim-centred and effective mechanism for fulfilling the rights of human trafficking victims is necessary to overcome the gap between the normative recognition of victims' rights and their actual realization in practice. Although Indonesian legislation has established mechanisms for restitution, compensation, protection, and recovery, the effectiveness of these mechanisms depends upon their implementation through an integrated judicial and institutional framework. Supreme Court Regulation (PERMA) No. 1 of 2022 should therefore be interpreted not merely as a procedural regulation concerning

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restitution and compensation, but as part of a broader legal framework aimed at strengthening victims' access to justice and effective remedies.

A victim-centred mechanism requires the legal system to place the needs, dignity, security, and recovery of victims at the centre of judicial proceedings. Human trafficking victims frequently experience multiple forms of harm, including economic exploitation, physical violence, psychological trauma, social exclusion, and loss of livelihood. Consequently, legal protection should extend beyond the prosecution and punishment of traffickers. The reconstruction of the mechanism should ensure that victims are systematically identified, informed of their legal rights, assisted in documenting their losses, and provided with meaningful opportunities to obtain restitution and compensation. Legal assistance and psychosocial support should also form an integral part of the process to prevent secondary victimization.

One important aspect of reconstruction concerns the early identification and assessment of victims' losses. Restitution should be incorporated into the criminal justice process from an early stage rather than being treated as a matter considered only after conviction. Investigators and prosecutors should facilitate the collection of relevant evidence concerning economic and other legally recognized losses, while courts should assess restitution claims in a manner that reflects the particular vulnerability of trafficking victims. Such an approach would strengthen the connection between criminal accountability and victim recovery.

The effectiveness of restitution also requires stronger enforcement mechanisms. A judicial order granting restitution will have limited substantive value if the victim cannot ultimately receive the amount awarded. Therefore, the legal framework should encourage effective tracing, securing, and utilization of offenders' assets for the satisfaction of restitution obligations, while respecting applicable procedural and property rights. Where restitution cannot be effectively obtained from the offender, compensation mechanisms should provide an additional avenue for ensuring that victims are not left without meaningful redress.

Furthermore, institutional coordination must be strengthened among investigators, prosecutors, courts, the Witness and Victim Protection Agency, legal aid providers, and other relevant institutions. Clear allocation of responsibilities and information-sharing mechanisms are essential to prevent fragmented protection. Ultimately, reconstruction should establish a continuous mechanism encompassing victim identification, legal assistance, loss assessment, judicial determination, enforcement, compensation, and long-term recovery. Such a framework would transform PERMA No. 1 of 2022 from a primarily procedural

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instrument into a more effective component of Indonesia's victim-centred justice system, ensuring that trafficking victims are not merely recognized as participants in criminal proceedings but are effectively treated as rights-holders entitled to justice, protection, and recovery.

4. Conclusion

The fulfilment of victims' rights in human trafficking cases requires a legal framework that moves beyond the conventional emphasis on criminal prosecution and punishment toward a comprehensive system of victim-centred justice. This legal review demonstrates that Supreme Court Regulation (PERMA) No. 1 of 2022 constitutes an important procedural development in strengthening the fulfilment of victims' rights to restitution and compensation within Indonesia's criminal justice system. In conjunction with Law No. 21 of 2007 concerning the Eradication of the Criminal Act of Trafficking in Persons and other relevant legal instruments, PERMA No. 1 of 2022 provides a normative basis for recognizing victims as rights-holders who are entitled to effective remedies for losses and suffering caused by trafficking. The normative framework established under PERMA No. 1 of 2022 demonstrates that restitution and compensation should be understood as integral elements of victim protection rather than merely supplementary consequences of criminal adjudication. Human trafficking generates multidimensional harm, including economic losses, physical injuries, psychological suffering, deprivation of liberty, and disruption of social and family life. Therefore, the fulfilment of victims' rights requires judicial mechanisms capable of identifying and assessing these forms of harm comprehensively. The legal recognition of restitution and compensation represents an important step toward restoring victims' dignity and providing substantive access to justice. Nevertheless, the judicial implementation of these rights continues to face significant legal and institutional challenges. The existence of a judicial order for restitution does not necessarily guarantee its actual payment. Difficulties relating to the identification and valuation of losses, evidentiary requirements, offenders' financial capacity, asset concealment, limited institutional coordination, and insufficient victim awareness may create a gap between normative entitlement and practical realization. Accordingly, the effectiveness of PERMA No. 1 of 2022 depends not only on judicial compliance with its procedural provisions but also on the capacity of law enforcement and victim-protection institutions to ensure effective enforcement. The reconstruction of the existing mechanism should therefore adopt a stronger victim-centred approach. Victims should receive information, legal assistance, psychosocial support, and institutional protection from the earliest stage of criminal proceedings. Restitution assessment should be initiated as early as possible, while mechanisms for tracing and securing offenders' assets should be strengthened to

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support enforcement. Institutional cooperation among investigators, prosecutors, courts, the Witness and Victim Protection Agency, and legal assistance providers should also be integrated into a continuous protection mechanism. Ultimately, the effectiveness of PERMA No. 1 of 2022 should be measured not merely by the number of restitution or compensation orders issued, but by the extent to which victims actually receive meaningful recovery. Strengthening the connection between legal recognition, judicial determination, enforcement, and long-term recovery is therefore essential. Such reconstruction would reinforce Indonesia's commitment to human dignity, access to justice, and effective remedies, while ensuring that victims of human trafficking are treated not merely as evidentiary participants but as central rights-holders within the criminal justice system.

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